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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 10/052,447 | 01/17/2002 | Robert Justice Shartle | LIFE072DIV | 2719 |
| 24353 | 7590 | 06/25/2004 | EXAMINER | |
| BOZICEVIC, FIELD & FRANCIS LLP 200 MIDDLEFIELD RD SUITE 200 MENLO PARK, CA 94025 | | | CHAN, SING P | |
| | | ART UNIT | PAPER NUMBER | |
| | | | 1734 | |

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------|-------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/052,447 | SHARTLE, ROBERT JUSTICE |
| | Examiner Sing P Chan | Art Unit 1734 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 22-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/25/03, 2/26/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: removing the second release liner prior to laminating a hydrophilic polyester film to the pattern.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Braynin et al (U.S. 5,242,606).

Braynin et al discloses a method of forming a capillary flow device. The method includes forming a vent or opening on the cover sheet by drilling, i.e. cutting, injection molding the pieces to form tubes, vessel, chambers, which considered to include bypass channel and bladder, and joining the layers together by ultrasonic welding to from an enclosed volume. (Col 5, lines 2-19, Col 6, lines 21-28, and Figures 1-4, 5-14)

Allowable Subject Matter

5. Claims 22 and 23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
6. The following is a statement of reasons for the indication of allowable subject matter: The claims recite a method of forming a fluidic diagnostic device. The method includes placing a double-sided adhesive tape between a first and second release liners, cutting out a portion of the first release liner and the tape to form a pattern, which the pattern includes a sample port, a measurement area, a channel to provide a fluidic path between the sample port and the measurement area, and a bladder, laminating a hydrophilic polyester film to the pattern, printing a reagent onto the measurement area, cutting a sample port through an untreated polyester film, removing the first release liner, laminating the untreated polyester film to the double sided tape, cutting a stop junction through the untreated polyester film, the tape, and hydrophilic polyester film, and applying one or more single-sided adhesive tape strips to the periphery of the hydrophilic and untreated polyester films to seal the stop junction. Blatt et al (U.S. 4,761,381) discloses a method of forming a capillary gap device for applying a liquid sample onto a reactive surface. The method includes providing a double-sided adhesive film, i.e. adhesive tape, cutting out chamber and channel in the tape, and laminating top covering layer and bottom layer onto the cut adhesive tape to form the device. (Col 10, line 59 to Col 11, line 2) Blatt et al does not disclose cutting the stop junction through the top covering layer, the tape, and the bottom layer and applying one or more single-sided adhesive tape strips to the periphery of the top covering layer and

the bottom layer to seal the stop junction. A search of the prior art of record did not disclose reference or references in combination with the recited features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Friday 7:30AM-11:15AM and 12:15PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chan Sing P
spc

R. Crispino
RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700